

From: joecooke  
Sent: Saturday, August 08, 2009  
Subject: Comments on tax preparer regulation

Comments on proposed regulation of tax preparers.

1. In general, it's about time that the government regulate all paid tax preparers. It is ridiculous that local government entities regulate such mundane things as giving a haircut or a massage, but allow tax preparers who can ruin someone's financial life to operate without oversight.
2. Any proposal to allow "grandfathering" of preparers on the basis of number of years experience is insane. I have run across many an unlicensed preparer whose skills and judgment run the gamut from uninformed to questionable to downright fraudulent. "Grandfathering" would, regardless of intent, act in the public's mind as an endorsement of unenrolled preparers' claims of professional experience when in fact their actions during those years have been of unknown quality and without any oversight.
3. It is absolutely essential that the IRS assist the public in distinguishing between the Federally Authorized Tax Preparer community and any new class of unenrolled preparers. While this would indeed protect the interests of Attorneys, CPAs and Enrolled Agents, that is not the point. The most important reason to make the distinction between these two classes of individuals offering tax services to the public is to make sure the public understands that unenrolled preparers are not on the same level as enrolled practitioners have undergone much more rigorous testing, background checks, and annual tax education.
4. To that end, it is absolutely essential that this new class of unenrolled preparers be referred to using a title or description that would not unintentionally mislead or confuse the public into thinking that they are the same as current Circular 230 practitioners. To wit, terms such as "licensed", "registered", "certified", "practitioner", "IRS approved" or "professional", etc. would be quite misleading and should be banned. May I suggest the use of more informative terms such as "Basic", "Limited", "Restricted" or "Unlicensed". There should be an additional requirement that this new class of preparers be required to use a phrase such as "Not admitted to practice before the IRS", or "Not licensed by the IRS" similar to the requirements for lawyers here in Texas to state that they are "Not Board Certified" unless of course they have passed a higher level examination, analogous in this context to enrolled practitioners having passed the Bar Exam, CPA Exam or SEE Exam.
5. Once established, it would be vitally important the use of only approved titles, phrases, or claims in advertising or any other public statements be enforced with sanctions for violations in order to protect the public from being duped. Claims relating to years experience would need to be restricted since such experience is unverifiable and without any sort of quality or tax knowledge standards during the period. To that end, there must be some sort of mechanism for the public to report violations and have resolution of the violation within a week, as the tax preparation season is only about 10-12 weeks long.

Joseph Cooke, Enrolled Agent  
Admitted to Practice before the Internal Revenue Service

From: Jonathan James  
Sent: Saturday, August 08, 2009  
Subject: Notice 2009-60

Sir/Ma'am,  
Concerning Notice 2009-60...

The lack of IRS standards has allowed individuals of any caliber to become a paid tax return preparer. From larger well-known franchise outlets to the local sole proprietor, or even a seasonal tax preparer, the lack of standards provides the public with no reasonable expected level of service. The knowledge of the paid tax preparer varies, from the professional who keeps up with tax issues on a day-to-day basis to that of an individual that passed a test to work for a franchise. Simply put, a taxpayer has no way to know if the individual being paid to prepare their tax return is knowledgeable, capable, or has ethical standards required of the Service. There will be arguments put forth by stakeholders claiming their standards, testing and screening assures the taxpayer of accurate return preparation. Each stakeholder will claim that their system meets the public's needs, their testing assures that all their employees have the requisite knowledge, and their personnel selection process assures the ethical standards required for the profession are upheld. Nevertheless, the wide range of results of the current cadre of paid tax preparers indicates otherwise. It seems prudent to allow stakeholders to pursue their own methods of training, customized for the expected level of service they provide. But there must be a base level of knowledge and ethics that the paying public can expect. As such, leave the training up to the individuals and entities having a stake in the profession, but have a standard test that each paid preparer must pass to ensure the requisite knowledge and ethical expectations are understood. For example, if an individual is to prepare individual income tax returns, then a test covering individual income tax returns and ethics would be appropriate. If an individual is to prepare CCorp, SCorp, partnership, or trust and estate returns, then the paid preparer should demonstrate the requisite knowledge through a standard test. It also seems in the interest of the Service that such tests be designed and administered under the oversight of the Service. This would ensure feedback from problems the Service sees in the returns gets proper emphasis in the test. I recommend that the Service require a license of all paid tax preparers. Whatever the tax return professional organizations do to assist their employees to meet the standards is up to them. The employees, however, should not be allowed to prepare tax returns of paying taxpayers without first meeting the standards of the Service.

Jonathan James

Sent: Sunday, August 09, 2009  
Subject: Tax Preparer Certification

Gentlemen:

I strongly advocate all individuals, who prepare personal income taxes for others for a fee, be required to demonstrate a degree of proficiency as determined by The Department of The Treasury (Internal Revenue Service). Following the successful demonstration of an adequate knowledge base, a license or certification should be issued to the preparer which would permanently identify them on each and every tax document filed for a fee with the Government. This license would remain valid only as long as the individual demonstrated consistent adherence to IRS guidelines and ethics.

Regards,  
Michael W Pinchak

From: Marilyn Stefans  
Sent: Sunday, August 09, 2009  
Subject: Tax Preparer Regulation

I am strongly in favor of regulating income tax preparation uniformly.  
It is absurd that the people with the best credentials, those covered by Circular 230, are regulated, while ANYONE with no proven ability to prepare tax returns can do so, fleece the public, and steal tax revenue leading to higher taxes for all honest taxpayers. I am in favor of testing for competence, continuing education for ALL tax preparers, just as Circular 230 preparers have passed competency tests and require annual continuing education.

Marilyn Stefans, E.A, CFP

From: Luis O Rivera  
Sent: Sunday, August 09, 2009  
Subject: New regulations

As Michael Dolan pointed out in his recent remarks, CPA, Attorneys and Enrolled agents are already subject to myriad of regulations governing their practice before the IRS. However, we all agree, particularly professionals governed by regulations and State Boards of Accountancy rules, that unlicensed return preparers should have some oversight. One solution may be the model used to regulate unlicensed money transmitters. For years, unlicensed Money transmitters were a problem for regulators and investigative agencies because they represented a high money laundering threat. The solution was to require a registration with FinCen. Likewise rather than engage in unduly duplicative regulations of professionals already subject to regulations why not have the regulations require unlicensed individuals and those not subject to regulations now to register with the IRS as return preparers. A registration requirement ensures that the IRS knows who is preparing returns (in addition) to CPAs Attorneys and EA and the registration requirements can be such that there are minimum standards in order to qualify as a return preparer. In addition, those subject to registration can then be placed under existing regulations and rules ( such as circular 230) to ensure that the playing field is even for all return preparers. A registration substantially accomplishes what the IRS needs to do to ensure that those preparing tax returns comply with professional and industry standards. It protects the public from those would be unscrupulous preparers and ensures that the government's established rules apply to all in that business segment. In addition, a registration is a much simpler and less expensive way to accomplish this worthwhile endeavor, saving taxpayers money. I encourage you to consider a registration requirement rather than imposing more regulations on those already under regulations.

Luis O. Rivera, CPA, CFE, CFF  
Partner  
MRW Consulting Group LLP

CCPA : LPD : PR (Notice 2009-60)  
Internal Revenue Service

Re: Input on Preparer Registration and help increase taxpayer compliance

If you could assign a staff member one hour to read this book, you will find that this is the only method that will work in obtaining the true income of taxpayers. It involves the use of electronic technology that is available today. It will eliminate the \$300 billion tax gap and help pay for most of the O'Bama tax packages. It will also stop those individuals illegally collecting welfare and the low earned income tax credit. The installation of this system of income reporting will obtain the honest reporting of income and expenses that the 92 years of Congressional and IRS attempts have failed. This system will replace the honor system concept for reporting your income. The installation of the IVS system would be similar to the installation of the e-File Income Tax system. The book was sent to you free of charge.

Respectfully,  
Robert Riggle

From: Williams Jr., Edward F.  
Sent: Monday, August 10, 2009  
Subject: Tax Preparer Conduct and Exam Process

To whom it may concern,

I believe that all tax preparers should take a National Certification Exam, with a supplemental State exam, similar to the Pesticide Core Exam that is given nationally. This will ensure proper training and also create a specialized skill set for Tax Preparation. As a tax preparer and tax school instructor I try to emphasize the value of helping customers as well as being accountable for any actions we as preparers incur. I really think that there is no other way but to certify preparers and create an ethical standard similar to Circular 230. Maybe you can also charge a recertification fee based on CEU credits, and an initial fee for certification to cover cost of such a program. This is just my opinion on this matter and I hope it can help. Thank you.

*Edward F. Williams, Jr.*  
*Program Management Specialist 1/Office Manager/Safety Rep.*  
Landscape Services Unit  
FM -Building and Landscape Services

Malcolm Ponder, MBA, All', ABA  
Kathryn Hadley, MA

August 10, 2009

CCPA: LPD: PR (Notice 2009-60)

Dear People:

I am an unenrolled preparer and have been practicing for over 35 years. I'm pretty savvy about what's the correct way to prepare taxes and follow the rules as far as CTEC registration, Continuing Education, signing returns, etc. I send in about \$250,000 with the 90 +/- Form 4868 I file each April 15<sup>th</sup> and do my utmost to prepare returns that keep my clients from being audited but also paying the proper amount of taxes. Here is what I see as the main cause of returns prepared by un-registered and/or unscrupulous return preparers: Turbo Tax and the ability within this software to enter "self-prepared" in the "Paid Preparer's Use Only" section at the bottom of page 2 of the Form 1040. It seems to me that the IRS needs to prevail upon Intuit to eliminate this option from the TurboTax program. They also need to be convinced that only one person's return be able to be prepared from one copy of the software. I pay almost \$2,000 per year for my ProSeries tax return software and I feel screwed over by so called bookkeepers using a \$15 copy of TurboTax to file numerous fraudulent returns. I also spend 60+ hours and many thousands of dollars in classroom CPE. My (albeit limited) experience with these "preparers" is that they do not declare this income into their main business but direct payments to their personal checking account (or for cash). If the IRS were to audit some of these folks in a very public way, examining both the bookkeeping service returns as well as personal returns with media attention this would, in my opinion greatly reduce this practice.

Sincerely,

Malcolm Ponder



August 10, 2009

ELMER R. SCHRAFT  
LICENSED PUBLIC ACCOUNTANT  
ENROLLED AGENT

CCPA:LPD:PR (Notice 2009-60)

Before I answer your list of questions I will explain who I am and comment on Issues you should help solve in your organization before you run off and get rules which are no better than the rules made in the past. I am an Enrolled Agent since March 11, 1975 and a Licensed Public Accountant in the State of Idaho since August 9, 1977. An LPA in Idaho has all the rights of practice of a CPA, except for issuing, audit reports.

I was lucky when I was being trained in the tax & accounting business by probably the best CPA in the state of Idaho at that time. He would challenge the IRS on the issues of the day and send the agents back to their offices with hat in hand. This gentleman just knew the code in side and out. Cases which went by the auditor's ended up being settled in his clients favor. We always had to have at least 24 hours of continuing education a year. As he would have said, "we did continuing education long before they could spell it." I think they were the associations. During these years we did the work without the use of computer. Calculators and pencils and pre printed forms were the tools of the trade. During these years the IRS personnel of the area understood the practitioners and the client base. For example a partnership I had as a client had their affairs pretty much wound up when it received a notice of a complete audit the old every receipt every transaction. The auditor came to my office

and I told him who the two partners were. These partners had been in various partnerships together for years and years. In the earlier years these partners would sit down for lunch and draft a \$1,000,000.00 pipe leasing company on a napkin at the restaurant. He had audited others of their 5 or 6 partnerships. The partners were up in age and very little activity between them. He said we are not going thru this, we will wait until one of them dies and then we will sort it out. Why waste time when **nothing** will be gained. Offer in compromise was easy because you could walk thru it with a local collection agent. But that has been changed to a nite-mare experience. I believe the last one I worked on drug out for four years and must have been transferred to at least three offices. I now send the clients to a tax attorney. I see today you have issued a new form. Are you going to change the way the taxpayers can work with you? Now if a client files a return thru the Ogden office and money is due. The client will probably receive letters from one of your outposts in Holtsville, NY or Cincinnati, OH, or Fresno, CA. plus Ogden and all of the others. I ask in some of my correspondence in the past to please tell me who was "running the ship", It is always the same problem, but never the same letter. The treasury inspector general for tax administration issued a report dated February 21, 2008. Reference Number 2008-40-062. In this report it basically states that Alternative minimum tax net operation loss is so complicated that practitioners like me couldn't do it since I was dealing with the problem at the time it made me feel good to know I wasn't the only dummy out here. Read this report and tell me who needs to upgrade their standards, it is only 30 pages. My clients are instructed not to call the IRS when they receive notices. Clients who have all complain of rudeness. I write all replies with instructions for you to correspond directly with the client because I know they will bring your response to my office. This way I am assured that someone on your end doesn't give me a name and their assigned number and type into some computer screen, their shorthand version of what I am trying to get across. Your web site can be useful but if you issue a "notice 2009-63" it should be on your site that day so somebody can find it.

My answers to your questions:

1. Everybody is a tax expert - your uncle "Joe" could be the family expert. Preparers are the licensed Pettifoggers", lawyers. "Cutting, pasting and assembling" CPA and Enrolled Agents. These groups are controlled by their licenses with the state or a license from the Internal Revenue Service. The next group are non-licensed, just because they are not licensed doesn't mean they have no skills. I have met ones who had to quit collage to raise the family, etc. As far as monitoring, you would have to identify them, don't believe you are quick

enough to do that. A possible solution is adding a new form to the tax return. TAXPAYER's return must have a statement from the taxpayer where the taxpayer tells you who the return was prepared by. If it is electronic filed. The return cannot be accepted until that information is received. If paper filed you can match the signatures.

2. You have bolted the door on preparers who are not licensed. They can't talk to you on behalf of their clients. Of course the licensed 3 are finding it hard if not impossible to get someone assigned to walk thru the problem from start to finish.

3. Not if you go to the stores with the tax software on all the shelves advertising that it will walk you thru and your return will be perfect. Do you hold them responsible when you audit a return as being a preparer? Describe education, are you talking about a master's in Chinese? Training, that comes with years of experience. If you know the name of the preparer you can monitor the returns prepared and the quality of the work and see if something needs to be done. First let's get the word out that the IRS web site contains the Code and all up dates daily and all forms and instructions. Might be worth your time to write it in more than one language and split the web site up that way.

4. You are in the business of collecting money for the government so you should be responsible for any cost of collecting that money. I am in the accounting business so if I need a program to do something better I have to spend the money to make the idea work.

5. Code of ethics. Man kind can't even deal with the first 10 that the guy came off the hill with. Associations, local, state, & federal government pass laws every day including ethics. Prison system is full of examples and nobody has been able to catch most of the un-ethical.

6. What ever you decide to do with the unlicensed should apply to staff. If they work there they are under the same obligations as the preparer.

7. Same as the state boards for CPA's or lawyers. Do it or lose you license. EA's do it or lose your license.

8. They can't sell a product such as a retirement plan that they receive a fee for from company X. If they didn't have a conflict because of the money factor they would have recommended company A. Now we know some firms have a 10 story office and say that employee B on the 15t floor handles that, but the preparer says I am on the 10th floor preparing the return so I don't have a conflict of interest. Do it like the guy in this office, say client you need a retirement plan, I don't do those. A number of people in the phone book do those. Remember you are dealing with a salesman when you contact them. You might find that the big franchise centers have all kinds of these devices to pump a few more dollars out of the taxpayers.

9. Your problems in the real world are if you cut out everybody that prepares a return that doesn't meet your standard then you have run taxpayers to someone who will bilk them for more fees. I believe you should find out what the problem is and how large is this problem. Just because you have a new head honcho or whatever that might want to make a name, don't pass a useless law. Define the problem so the solution fits the problem. Wish I was in a betting state like Nevada, because I would give you odds that the unlicensed person in our area who may be doing it from their kitchen table and know all their clients and have forever are not out to cheat. Just do the best job they can for their clients and friends. Most of them probably know more about tax law than the majority of your employees.

Respectfully,  
E R Schraft

Comments in Response to Notice 2009-60  
From Pnscilla Balley EA  
August 10, 2009

I am a self employed Enrolled Agent, and a member of NAEA and WSSEA as well as the Washington State Tax Consultants and NSA. I have been in business for 22 years, and I have been professionally preparing income tax returns since 1983. I would like to share the following comments:

1. Many individuals who prepare income tax returns for a fee are not members of professional organizations and are not regulated in any way. For that reason, I am very perplexed that IRS has made a proposal to regulate preparers using existing professional organizations. This will NOT work. There needs to be an IRS licensing system to monitor and test these preparers.
2. Preparers who are not governed by Circular 230 (Le. NOT enrolled agents, CPAs, or attorneys) do not have much interaction with IRS. They come to IRS attention mainly when they prepare returns that are incorrect and IRS discovers the errors in their checking and examination activities. Although a good penalty system is in place to handle these situations, penalties are applied only after errors have become serious. This gives the taxpayers little protection. Unlicensed preparers often do not follow all the rules due to lack of knowledge. They rarely attend tax seminars and IRS presentations. Without a requirement to get continuing education, many do not bother to update their skills. In contrast, preparers who are Enrolled Agents, CPAs, or attorneys are required to get continuing education and are much less apt to make mistakes out of ignorance. Now that continuing education requirements include classes in ethics, these professionals are also much more knowledgeable of ethics requirements and less apt to violate them.
3. Of course there is a minimum level of education needed to prepare tax returns! The law has become increasingly complex, even for returns involving young families with only wages for income. I once hired an assistant preparer who had been preparing returns from his home for 25 years. I had to let him go because he was making serious mistakes on issues like the Earned Income Credit and whether an individual qualified to be a dependent. Just reading the instructions to the tax form is no guarantee of understanding the rules! Every preparer should be required to take an exam testing his competence in basic tax rules.
4. IRS is actually doing a pretty good job of providing services to the preparer community. The website is excellent, and workshops are available in many communities. The problem is getting unlicensed preparers motivated to use these resources. Requiring continuing education would solve this problem.
5. Actually there is a pretty strong code of ethics spelled out in the Tax Code to govern tax preparers! But these laws are not being communicated to the unlicensed preparer community who needs to read them.
6. Firms that hire tax preparers have a duty to train their staff in both tax law and ethics requirements. However, I don't think employers should be subjected to penalties when they had no knowledge of the ethics lapses of an employee. We need to make distinctions between violations of rules which are aided and abetted by the employers and violations which occur despite the employer's reasonable efforts to train and monitor their employees.
7. I believe that it is reasonable to exempt Enrolled Agents, CPAs, and attorneys from any new test created for general tax preparer licensing. They have already proven that they are knowledgeable and are required to get continuing education to update their skills. I am not sure how "software providers" fit into this picture. I would expect that firms creating tax preparation software would be hiring one of the above licensed individuals to review the program for tax compliance. This should be a requirement.
8. I want to see regulations requiring all professional income tax return preparers to be licensed by IRS. They should be required to take a basic tax knowledge test if they are not already governed by Circular 230. They should also be required to get continuing education. I believe the public needs this kind of protection. I also believe this is in the best interest of the government, as it will result in fewer errors and ethics violations.

From: Margaret Wood  
Sent: Monday, August 10, 2009  
Subject: "Notice 2009-60"

I understand that there is difficulty in tracking unenrolled tax preparers. Perhaps a way to start tracking these preparers could be setting up a requirement that all tax returns prepared by paid preparers have a PTIN rather than the social security number of the preparer. As getting a PTIN is easy to do and can be done online, this should not create a burden for either the IRS or tax preparers and practioners. It would require changes in the IRS e-file system to identify returns prepared by paid preparers, rather than taxpayers, and reject all returns by preparers that do not include a PTIN. For paper filed returns, education would need to be provided to those IRS employees who enter the returns into the IRS system so that SSNs on paid preparer returns are rejected or the preparers information is captured in a database. Making this change might not capture those preparers that use products like Turbo Tax programs that are geared to individual taxpayers. However, this might begin the process to identify unenrolled preparers, which is the first step in enforcing compliance with the rules and regulations already in place. The information could be used to make sure that those unrolled preparers are given information about the need for obtaining the required licensing once the licensing procedures are put in place.

Margaret A. Wood, EA

From: MILDRED ALVARADO  
Sent: Monday, August 10, 2009  
Subject: client's IRS debts

the system should be adjusted so that when a client owes taxes and is expecting a refund that the system still considers and pays the tax preparer's fees when e-filing before the refund is withheld. Tax preparers should not be penalized since we are the ones facilitating these payments to the IRS. As it is now we E-FILE a return knowing that the client is expecting a refund. If the refund is withheld by the IRS we do not get paid. The client claims that they do not have any monies to pay our services. You should take care of us by paying our services before you withhold any refunds.

From: Robert Olds  
Sent: Monday, August 10, 2009  
Subject: Comments on Tax Preparers

1. Since tax preparation is ultimately completed by an individual, it makes no sense to license a corporation, or any other entity, to perform tax work. Like Jaw, taxpayers are represented by a tax professional. Exactly how a taxpayer can be represented by a corporation makes as much sense to me as a patient being treated for a disease by a HMO instead of a doctor. Accordingly, any and all regulation of tax professionals should be at the individual level. Since any and all tax work can have as much to do with the welfare of any individual taxpayer, the tax professional performing services at large for taxpayers should be licensed. License should be limited to those individuals cited in Circular 230, e.g. attorney, CPA, or enrolled agent (EA).

2. To perform tax services a tax professional should complete a sensible preparatory curriculum. Presently, there is no standard. Both the legal and accounting professions offer preparatory work in the subject as do many related organizations, such as the A/CPA. Other than a trivial return which could be completed by VITA, the attorney, CPA, EA preparing a tax return should have a MS in Tax or an LLM in Taxation. Further, the professional should be required to complete at least 80 hours of CPE in taxation related subjects every 2 years. Ensuring that the tax return preparer meets this minimum level, every two years they will need to submit documentation to the Office of Professional Responsibility as to CPE taken and a certification that education is true and correct. Much like a CPA renews their license today, but the certification must include copies of education attended and completed.

Robert Olds, CPA, MSB, MS Tax (2010)

From: Charlene  
Sent: Monday, August 10, 2009  
Subject: License requiriements to practice

If licensure is required, and I do see a need, I do hope it requires some exam and continuing education requirement to attain the license. I don't want it to become merely a registration. The enrolled agent exam is more comprehensive than any other exam I have taken (Oregon Tax Consultant and Accredited Business Accountant). The tax portion of the ABA exam has been used to license PAs in some states and seems to be adequate; it also requires continuing education.

Charlene Van Cleef  
EA, LTC

From: CATHY WILLIAMS  
Sent: Monday, August 10, 2009  
Subject: NOTICE 2009-60

When you are a member of a professional organization like the National Society of Accountants or your local state society of accountants you must keep up your education credits including ethics. I am aware that all accounts do not attend update seminars at all, but if they were members of one of these organizations they would have to. From the information I have read in the upcoming law, the accountants, etc, that sign the returns will be held responsible but what about the ones that never sign a return and still complete then and charge? They are the ones that are truly not educated and not following the laws. I believe more advertisement should be done on making sure that the general public is aware what a signature from a tax preparer means on the bottom of their return and maybe the public will watch for a signature.



From: Linda Barnette  
Sent: Monday, August 10, 2009  
Subject: NOTICE 2009-60

COMMENTS CONCERNING NOTICE 2009-60.

I HAVE BEEN IN THE INCOME TAX BUSINESS FOR TWENTY FIVE YEARS. SIX OF THOSE YEARS I WORKED FOR A CHAIN TAX PREPARATION COMPANY. I DID NOT AGREE WITH SOME OF THEIR TACTICS TO GET TAXPAYERS MONEY AND I LEFT TO OPEN MY OWN BUSINESS. FOR NINETEEN YEARS I HAVE OWNED MY OWN BUSINESS AND PREPARED TAXES FOR THE PUBLIC. I HAVE A GOOD BUSINESS AND GREAT CLIENTELE BUILT UP BECAUSE THEY TRUST ME TO PREPARE THEIR TAXES CORRECTLY AND WITH INTEGRITY. I ONLY PREPARE 1040 INDIVIDUAL RETURNS AND SMALL BUSINESSES, FARMS AND ALL THAT PERTAINS TO A 1040 FORM. I DO NOT PREPARE MANY PARTNERSHIPS AND CORPORATIONS OR TRUSTS. I DO NOT HAVE MUCH EXPERIENCE IN THESE AREAS. I SEND CLIENTS TO CPAS OR OTHER ACCOUNTANTS WHO PREPARE THESE RETURNS. THAT IS MORE THEIR EXPERTISE. I DO NOT THINK IT IS FAIR FOR SOMEONE LIKE ME TO HAVE TO GIVE UP MY BUSINESS BECAUSE I DO NOT PREPARE THESE MORE INVOLVED RETURNS. IF I HAVE TO PASS THE TEST, THEN IT IS ONLY FAIR FOR THE LAWYERS AND CPAS TO PASS THE SAME TEST. I KNOW FOR A FACT THAT SOME OF THEM DO NOT KEEP UP WITH THE CURRENT TAX LAWS. ONE OF MY FAMILY MEMBERS DID NOT BELIEVE ME ON A TAX QUESTION AND WENT TO A CPA. THEY TOLD HER WHAT SHE WANTED TO HEAR. I WENT WITH HER TO A LOCAL IRS OFFICE AND SHE WAS TOLD A TOTALLY DIFFERENT ANSWER THAN THE CPA TOLD HER. I GO TO SCHOOL EVERY YEAR AND HAVE THE ACCREDITED TAX PREPARER TITLE BY ACCREDITATION COUNCIL FOR ACCOUNTING AND TAXATION, INC. I HAVE TO HAVE A NUMBER OF HOURS OF EDUCATION TO KEEP MY ACCREDITATION. I REALLY ENJOY WHAT I DO AND HATE TO THINK I MAY HAVE TO CLOSE MY BUSINESS BECAUSE I CAN'T ANSWER QUESTIONS ABOUT PARTNERSHIPS, CORPORATIONS, TRUSTS, ETC. THANK YOU FOR THE OPPORTUNITY TO EXPRESS MY FEELINGS ON THE SUBJECT.

RESPECTFULLY,  
LINDA BARNETTE

## Tax Preparer Comment

I am a licensed Tax Consultant in Oregon; our state's system is very effective and affordable. You must be licensed to collect fees for tax preparation in our State. All licensed tax preparer have to complete a minimum of 80 hours of training, then pass the State administered exam before receiving their license, then be supervised by a Licensed Consultant. In order to become a Consultant, you have to have completed the three years as tax preparer and pass another State administered exam. We pay to take the exam as well as the license. These fees support the Board governing the tax preparation in Oregon. The license is renewed each year by paying a fee and completing an additional 30 credit hours of State approved courses which are verified by the State Department. The firms who employ Tax Preparer should also have to be licensed as a business and be held responsible for seeing that all rules are complied with. In Oregon, the industry tends to police its own and the taxpayers tend to report individual complaints to the State Department. The Department does have a division who responds to these complaints, applies fines and pulls licenses when necessary. I feel we have an excellent system in Oregon and highly recommend a similar system for the Federal level.

Betty Karsten

August 11, 2009

CCPA:LPD:PR (Notice 2009-60)

To Whom It May Concern,

This letter is in response to the public comments requested regarding tax return preparers. I am an enrolled agent that prepares income tax returns. As a tax preparer, I am required to follow the strict policies established by the Office of Professional Responsibility under Circular 230. I object to any further control by the Office of Professional Responsibility, or any other agency of the Internal Revenue Service or government agency. All proposals indicate that somehow by having requirements in place will control those preparers that are not regulated by Internal Revenue service. The preparers that create problems are those preparers that buy the software at the local Wal-Mart and prepare tax returns at a substantial discount than what would be charged by a professional. You can always tell what returns are prepared by these individuals because they all have "self prepared" on the tax return. There is nothing that can be done as long as these individuals are allowed to buy software at the local retail outlet. It would appear that Internal Revenue Service is making tax professionals their "Revenue Agents" without having to pay them what an IRS employee gets paid. The burden placed on a tax preparer is much more than what would be required by an individual preparing his/her own tax return. Again, there is enough control on tax professionals. Further legislation to add more controls is not necessary.

Sincerely,  
Robert Hamel, Enrolled Agent

August 11, 2009

CCPA:LPD:PR (Notice 2009-60)

Dear Commissioner Shulman:

Thank you for the opportunity to express my thoughts and concerns on the recent Notice 2009-60 as it relates to those of us who are unlicensed tax preparers. As I have been working in a tax office and preparing tax returns for several years I feel very threatened by the idea that you might just take away my livelihood. I take great pride in staying current by doing my continuing education on a yearly basis. The firm I work for and myself are known for our ethics, morality and service we provide to our clients. Taking an examination does not demonstrate that someone is competent or says nothing about their ethics. There are many unlicensed tax preparers currently preparing taxes who exemplify these characteristics. Therefore, it seems quite unfair to punish the good preparers for the bad work of a few. Since IRS already has the Preparer Taxpayer Identification Number, PTIN, in operation, why not have everyone who prepares taxes be required to include this number on the filed returns. By doing this, IRS would be able to identify who is preparing the incorrect tax returns. This would not put any unnecessary burden or expense on the small business owners to pay for their employees to take a test in order for them to continue preparing tax returns. The preparers who prepare negligent returns could then be penalized or required at that time to take additional training before returning to the workforce. Even continued education could be required with a standard reporting form to be sent to IRS along with the PTIN. Does this not seem better for all involved as it relates to business owners, taxpayers, tax preparers, and the IRS? Please consider carefully what you are asking small business owners, people who have been preparing taxes for many years, and all of us who are experienced, ethical preparers to do to continue to pursue our livelihood. In these tough economic times, the last thing we need is more expense and hoops to jump through. Along with this process will come a cost which will have to be passed on to the taxpayer. They do not need any additional expense either. These are just some of the reasons I am asking you to reconsider the testing process. Please determine there will be NO testing necessary for us competent preparers. Hopefully you will consider implementing some of these ideas or at the very least take them into consideration. After all, you did ask for input and comments

Amy Livengood  
Tax Preparer

August 11, 2009

CCPA:LPD:PR (Notice 2009-60)

Dear Commissioner Shulman:

Thank you for the opportunity to express my thoughts and concerns on the recent Notice 2009-60 as it relates to unlicensed tax preparers. As I have been working in a tax office and preparing tax returns for several years, I feel very threatened by the idea that you might just take away my livelihood as I know it. I work in an office with five other tax preparers who are considered "unlicensed preparers". Our staff takes great pride in staying current by doing continuing education on a yearly basis. The firm I work for and myself are known for our ethics, morality and service we provide to our clients. Taking an examination does not demonstrate that someone is competent or says nothing about their ethics.

There are many unlicensed tax preparers currently preparing taxes who exemplify these characteristics. Therefore, it seems quite unfair to punish the good preparers for the bad work of a few.

Since IRS already has the Preparer Taxpayer Identification Number, PTIN, in operation, why not have everyone who prepares taxes be required to include this number on the filed returns. By doing this, IRS would be able to identify who is preparing the incorrect tax returns. This would not put any unnecessary burden or expense on the small business owners to pay for their employees to take a test in order for them to continue preparing tax returns. The preparers who prepare negligent returns could then be penalized or required at that time to take additional training before returning to the workforce. Even continued education could be required with a standard reporting form to be sent to IRS along with the PTIN-L. Does this not seem better for all involved as it relates to business owners, taxpayers, tax preparers, and the IRS? Please consider carefully what you are asking small business owners, people who have been preparing taxes for many years, and all of us who are experienced, ethical preparers to do to continue to pursue our livelihood. In these tough economic times, the last thing we need is more expense and hoops to jump through. Along with this process will come a cost which will have to be passed on to the taxpayer. They do not need any additional expense either.

These are just some of the reasons I am asking you to reconsider the testing process. Please determine there will be **NO** testing necessary for us competent preparers. Hopefully you will consider implementing some of these ideas or at the very least take them into consideration..

With Respect,  
Teresa Colster  
Certified Public Accountant

August 11, 2009

CCPA:LPD:PR (Notice 2009-60)

Dear Commissioner Shulman:

Thank you for the opportunity to express my thoughts and concerns on the recent Notice 2009-60 as it relates to those of us who are unlicensed tax preparers. As I have been working in a tax office and preparing tax returns for several years I feel very threatened by the idea that you might just take away my livelihood. I take great pride in staying current by doing my continuing education on a yearly basis. The firm I work for and myself are known for our ethics, morality and service we provide to our

clients. Taking an examination does not demonstrate that someone is competent or says nothing about their ethics. There are many unlicensed tax preparers currently preparing taxes who exemplify these characteristics. Therefore, it seems quite unfair to punish the good preparers for the bad work of a few.

Since IRS already has the Preparer Taxpayer Identification Number, PTIN, in operation, why not have everyone who prepares taxes be required to include this number on the filed returns. By doing this, IRS would be able to identify who is preparing the incorrect tax returns. This would not put any unnecessary burden or expense on the small business owners to pay for their employees to take a test in order for them to continue preparing tax returns. The preparers who prepare negligent returns could then be penalized or required at that time to take additional training before returning to the workforce. Even continued education could be required with a standard reporting form to be sent to IRS along with the PTIN. Does this not seem better for all involved as it relates to business

owners, taxpayers, tax preparers, and the IRS? Please consider carefully what you are asking small business owners, people who have been preparing taxes for many years, and all of us who are experienced, ethical preparers to do to continue to pursue our livelihood. In these tough economic times, the last thing we need is more expense and hoops to jump through. Along with this process will come a cost which will have to be passed on to the taxpayer. They do not need any additional expense either. These are just some of the reasons I am asking you to reconsider the testing process. Please determine there will be NO testing necessary for us competent preparers. Hopefully you will consider implementing some of these ideas or at the very least take them into consideration. After all, you did ask for input and comments.

With Respect,  
Julie Bonar  
Tax Preparer

August 11, 2009

CCPA:LPD:PR (Notice 2009-60)

Dear Commissioner Shulman:

Thank you for the opportunity to express my thoughts and concerns on the recent Notice 2009-60 as it relates to those of us who are unlicensed tax preparers. As I work in a tax office and assist in the preparation of tax returns I feel very threatened by the idea that you might just take away my livelihood. I take great pride in staying current by doing my continuing education on a yearly basis. The firm I work for and myself are known for our ethics, morality and service we provide to our clients. Taking an examination does not demonstrate that someone is competent or says nothing about their ethics. There are many unlicensed tax preparers currently preparing taxes who exemplify these characteristics. Therefore, it seems quite unfair to punish the good preparers for the bad work of a few.

Since IRS already has the Preparer Taxpayer Identification Number, PTIN, in operation, why not have everyone who prepares taxes be required to include this number on the filed returns. By doing this, IRS would be able to identify who is preparing the incorrect tax returns. This would not put any unnecessary burden or expense on the small business owners to pay for their employees to take a test in order for them to continue preparing tax returns. The preparers who prepare negligent returns could then be penalized or required at that time to take additional training before returning to the workforce. Even continued education could be required with a standard reporting form to be sent to IRS along with the PTIN. Does this not seem better for all involved as it relates to business owners, taxpayers, tax preparers, and the IRS? Please consider carefully what you are asking small business owners, people who have been preparing taxes for many years, and all of us who are experienced, ethical preparers to do to continue to pursue our livelihood. In these tough economic times, the last thing we need is more expense and hoops to jump through. Along with this process will come a cost which will have to be passed on to the taxpayer. They do not need any additional expense either. These are just some of the reasons I am asking you to reconsider the testing process. Please determine there will be **NO** testing necessary for us competent preparers. Hopefully you will consider implementing some of these ideas or at the very least take them into consideration. After all, you did ask for input and comments.

With Respect,  
Mindi Wirsig  
Tax Preparer

August 11, 2009

CCPA:LPD:PR (Notice 2009-60)

Dear Commissioner Shulman:

Thank you for the opportunity to express my thoughts and concerns on the recent Notice 2009-60 as it relates to those of us who are unlicensed tax preparers. As I have been working in a tax office and preparing tax returns for over twenty years I feel very threatened by the idea that you might just take away my livelihood. I take great pride in staying current by doing my continuing education on a early basis. The firm I work for and myself are known for our ethics, morality and service we provide to our clients. Taking an examination does not demonstrate that someone is competent or says nothing about their ethics. There are many unlicensed tax preparers currently preparing taxes who exemplify these characteristics. Therefore, it seems quite unfair to punish the good preparers for the bad work of a few. Since IRS already has the Preparer Taxpayer Identification Number, PTIN, in operation, why not have everyone who prepares taxes be required to include this number on the filed returns. By doing this, IRS would be able to identify who is preparing the incorrect tax returns. This would not put any unnecessary burden or expense on the small business owners to pay for their employees to take a test in order for them to continue preparing tax returns. The preparers who prepare negligent returns could then be penalized or required at that time to take additional training before returning to the workforce. Even continued education could be required with a standard reporting form to be sent to IRS along with the PTIN. Does this not seem better for all involved as it relates to business owners, taxpayers, tax preparers, and the IRS? Please consider carefully what you are asking small business owners, people who have been preparing taxes for many years, and all of us who are experienced, ethical preparers to do to continue to pursue our livelihood. **In** these tough economic times, the last thing we need is more expense and hoops to jump through. Along with this process will come a cost which will have to be passed on to the taxpayer. They do not need any additional expense either. These are just some of the reasons I am asking you to reconsider the testing process. Please determine there will be **NO** testing necessary for us competent preparers. Hopefully you will consider implementing some of these ideas or at the very least take them into consideration. After all, you did ask for input and comments.

With Respect,  
Connie Vickers  
Tax Preparer



From: Barry Siebert  
Sent: Tuesday August 11 2009  
Subject: IRS Seeks Public Comment for Proposals to Boost Tax Preparer Performance Standards

Sir or Madam --

I am an Enrolled Agent and I take my credentials seriously. There is a very uneven playing field in the tax preparation industry today. The current system as is has two standards. The first standard is for any and everybody who thinks that they can prepare income tax returns with minimal oversight by the Internal Revenue Service, unless of course, they are caught doing something illegal and inappropriate. When the Internal Revenue Service catches a problem, it might mean that hundreds or even thousand of income tax returns prepared by the guilty tax preparer needs to be reviewed and scrutinized. How much in lost tax revenue and resources does the Internal Revenue Service have with these reviews. A few years ago, it was reported in the newspapers here about a Somalia immigrant who decided that he wanted to be a tax preparer and was caught putting in fictitious dependents, taking fuel tax credits among other things on other Somali immigrants income tax returns. I understand that the Internal Revenue Service was forced to review something like 3,000 or 3,500 income tax returns over several years. I am not sure if the Internal Revenue Service penalized and charged interest to the Somali immigrants who signed the income tax returns or not. There are no guidelines for education and licensure of these individuals. If a tax return is not done correctly, taxpayers may not have any recourse against these individuals for penalties and interest of different kinds. I believe that there is case law where judges ask the taxpayers why they hired an incompetent, inexperienced individual or firm and have thrown out cases because it was ultimately the fault of the taxpayers to hire these unprofessional folks to begin with. The second standard is one that applies to me as an Enrolled Agent, along with lawyers and CPAs. There is strict oversight on continuing education, training, ethics, and administrative actions. As professionals, we have to obtain Errors and Omissions insurance to protect ourselves in case we get sued by taxpayers if their return was not correctly done. In addition to that, continuing education is expensive in terms of tuition and time spent in a class or in self-study. Every year it costs around two or three thousand dollars for insurance, continuing education, travels and meals for me personally. As a professional, I have to make sure that my income from tax preparation work exceeds what I have paid in expenses. As a group, our income tax return accuracy and tax revenue generation is probably much higher than those covered by the first standard. Many tax preparers or their firms purchase tax preparation software or licenses that may costs several thousand dollars. The funny thing about tax software is that the developer/producers do not guarantee accuracy because of how complex the software has become. There is no substitute for a paper review and check before the income tax return is given to the taxpayer for their review and signature. Every year, more and more taxpayers are calling up local tax preparation offices to find out what it would cost to prepare their income tax returns. Taxpayers do not care about professional credentials and experience. They just want to get their income tax returns prepared for the lowest amount of dollars. So in the past few years at least, the tax preparation firms that I have worked for have been receiving these price shopping comparison calls. Tax preparation fees have become a commodity, but it is taxpayers beware. I have been put in a position more than a few times when a new client comes to see me for tax preparation work where I asked to see at least two prior years income tax returns. Many times I have advised clients that they should file an amended return because their prior years tax returns was incorrectly prepared. Clients take what I say out of advisement, but don't usually follow up because, first there is a tax preparation cost to do an amended return and secondly, there are additional income taxes that they need to send in with the amended return. I could do their amended return for them for which they will be charged or they can go back to the original tax preparer to have them do an amended return and it should be done for free since it was the mistake of the original tax preparer. Often times, they won't let me do the amended return and I suspect that they never went back to the original tax preparer to do the amended return. One particular gentleman was a hockey referee that worked college and high school games. He received a 1009MISC and it clearly showed that it was Box 7 - Non employee compensation. So I proceeded to complete a Schedule C - Profit or Loss from Business. When he came in for an exit conference to discuss his income tax return, he was clearly visible and angry about paying self employment taxes and income taxes on his 1099-MISC earnings. He said that his previous tax preparer always showed his 1099-MISC income on line 21 on the 1040 as Other Income. He said that I was mistaken and he refused to sign his return or pay for the work that I did. He said that he was going back to his previous tax preparer to do his income tax return. Confidentiality bars me from

conveying this to the Internal Revenue Service, but I feel conflicted regardless. I think that is is ridiculous that we have an "honor system" in place to file income tax returns. There are probably billions of dollars of lost tax revenue. It is gotten to a point where I have been seriously considering giving up my Enrolled Agent license and to be judged by the group using the first standard. I need to price my services to cover the costs of my continuing education, E&O insurance, income tax preparation software. I need to remain available for business for the duration of the year beyond the typical January through April 15th income tax season.

Barry Siebert, Enrolled Agent

August 11, 2009

CCPA:LPD:PR (Notice 2009-60)

Dear Commissioner Shulman:

Thank you for the opportunity to express my thoughts and concerns on the recent Notice 2009-60 as it relates to those of us who are unlicensed tax preparers. I currently own my own business. I have worked in a tax office and prepared tax returns for almost thirty years. I feel very threatened by the idea that you might just take away my livelihood. I take great pride in staying current by doing my continuing education on a yearly basis. I not only attend classes for myself, but also include my employees in the training. My firm is known for our ethics, morality and service we provide to our clients. Taking an examination does not demonstrate that someone is competent or says nothing about their ethics. There are many unlicensed tax preparers currently preparing taxes who exemplify these characteristics. Therefore, it seems quite unfair to punish the good preparers for the bad work of a few. Since IRS already has the Preparer Taxpayer Identification Number, PTIN, in operation, why not have everyone who prepares taxes be required to include this number on the filed returns. By doing this, IRS would be able to identify who is preparing the incorrect tax returns. This would not put any unnecessary burden or expense on the small business owners to pay for their employees to take a test in order for them to continue preparing tax returns. The preparers who prepare negligent returns could then be penalized or required at that time to take additional training before returning to the workforce. Even continued education could be required with a standard reporting form to be sent to IRS along with the PTIN. Does this not seem better for all involved as it relates to business owners, taxpayers, tax preparers, and the IRS? Please consider carefully what you are asking small business owners, people who have been preparing taxes for many years, and all of us who are experienced, ethical preparers to do to continue to pursue our livelihood. In these tough economic times, the last thing we need is more expense and hoops to jump through. Along with this process will come a cost which will have to be passed on to the taxpayer. They do not need any additional expense either. These are just some of the reasons I am asking you to reconsider the testing process. Please determine there will be NO testing necessary for us competent preparers. Hopefully you will consider implementing some of these ideas or at the very least take them into consideration. After all, you did ask for input and comments.

With Respect,  
Paula Elliott  
Tax Preparer

From: Rudolph CPA  
Sent: Tuesday, August 11, 2009  
Subject: Notice 2009-60

Thank you for requesting input on the issue of tax preparer standards. As you know, there are too many unqualified and unscrupulous people preparing taxes on the behalf of taxpayers. Regulating the industry is long overdue. Some suggested regulations from an experienced CPA and enrolled agent:

A licensure which entails:

- background check

- college degree

- passing of the uniform CPA exam or IRS enrolled agent exam

Higher standards will weed out unqualified people, increasing compliance.

Thank you

Chris Rudolph CPA IRS enrolled agent

From: HENRY LINDSEY  
Sent: Tuesday, August 11, 2009  
Subject: TaxPreparer

I have been a Tax Preparer for over 30 year. In addition I have been in the E-File program since the beginning days. First I want you all to realize that there is a power struggle between the lobbying groups of CPA's, enrolled agents and Tax Preparers. They are losing massive amounts of business to online software firms and to the Tax Preparer due to our ability to offer bank programs and a lower cost fee structure. Many client are leaving the CPA and enrolled agent structures because the charges are excessive and the quality is not what you think. There is a blame game going on here. Let look at the real problem, the e-file system needs more checks and balances as it is flawed. I would also add that back ground checks should include a credit check before e-file approval. The Internal Revenue Service would have weeded out a lot of the bad apples if a credit check was required. There should be clear tax language regarding, Head of Household, Earned income tax credit or area's of abuse.

Best regards

**Sent:** Wednesday, August 12, 2009  
**Subject:** 2009-60

RE COMMENTS ON TAX PREPARERS

It seems to me to be a travesty of justice that the tax code is so complex that no ordinary person could hope to understand it, making it critical that most people seek the assistance of a tax preparer, sometimes for basic returns, and certainly for any relatively complex return. Yet, if there ever is a problem with the return, the individual is not permitted to blame the tax preparer, he or she is fully liable. I believe that the only thing an individual should be liable for is deliberately providing false information to the tax preparer which the tax preparer did not know was false. Just as lawyers and doctors are held responsible for their actions, so tax preparers also should be held responsible. Better yet, perhaps we need a flat tax that simplifies the process for personal income taxes and requires every employer to deduct a fixed amount from every pay check to submit to the IRS. Brokerage houses also should be required to deduct a flat percentage of the net capital gains and transmit to the IRS. One would need to file a return only in rare instances, such as to obtain an energy tax credit, to report foreign income, or to report capital losses from a different brokerage and obtain a refund of capital gains taxes paid. Tax preparers undoubtedly would find another career, the IRS would be able to cut its budget by 80%, and the country would be relieved of the stress of tax=2 0time.

From: Linda McCormick  
Sent: Wednesday, August 12, 2009  
Subject: Notice 2009-60

Richard Goldstein:

I am an individual tax preparer working out of my home.

I was hired by a CPA after he received his license in 1975. I attended an H & R Block training course at that time and began tax preparation in the spring of 1976. With the aid of annual IRS seminars I continued preparing all returns for him for 23 years. I prepared the returns and he signed them. In 1999 he retired and moved on to other things. We had a small client base following, still preparing returns for those we had in our first year of 1976. I applied for FEIN, set up office environment in my house and continued to prepared returns for those same clients. Many of these clients are in their 80s, and would be horrified at the thought of having to go to anyone else. I question what prompted this concern regarding the education of tax preparers. In the past preparers have not been required to be licensed. I do realize that CPAs think no one is qualified to prepare a return but a CPA. However, I know from experience of working in three different CPA firms that it's the people in the back office that are not licensed or enrolled that are doing the preparation of these returns. At best, they are being scanned by a CPA before signature. In my opinion requiring all preparers to be licensed or enrolled will not cut down on errors. More errors are made by CPAs through creative accounts (KPMG, for example) than individual preparers trying to do a service for those people unwilling or unable to use the services of a CPA firm. In 33 years of tax prep I've only had 2 individuals audited (farming) and those passed the audit with no additional tax liability, penalties, or interest. Could we have some clear explanation as to why unrolled or unlicensed preparers are suspect for creating more errors than CPAs or enrolled agents? If unlicenses preparers are not being targeted, then the proof would be that we won't be required to be licensed. I think IRS would be hard pressed to prove that unlicensed preparers would have more errors than CPAs or enrolled agents. How will this affect those individuals using TurboTax and other software? Will an individual not be able to prepare their own return? This is not medicine we're practicing here now, nor is it rocket science. As a CPA once told me...you just study hard, pass the exam, and hire someone else to do the work. Are there any lobbyists involved in this decision?

From: Gene Utterback

Sent: Wednesday, August 12, 2009

Subject: Regarding Notice 2009-60 - Call for public comments

Greetings,

This e-mail is in response to your request for comments regarding Notice 2009-60 regarding Tax Preparer Registration. First, let me introduce myself - I'm Gene E. Utterback and I'm an Enrolled Agent, I'm sure you know all about this designation. I'm also an Accredited Tax Advisor and an Accredited Tax Preparer - there were earned through the Accreditation Council for Accountancy and Taxation and they can be found online at <http://acatcredentials.org/>.

I am a member in good standing with the National Association of Enrolled Agents, the National Association of Tax Professionals and the Maryland Society of Accountants. I want to make it very clear, right up front, that I am speaking on behalf of myself ONLY - I do NOT claim to be speaking on behalf of or for any organization. What follows are MY thoughts and opinions on tax preparer registration. I strongly support registration for all tax preparers. However I do not think it is necessary to reinvent the wheel. There are at least two professional designations already in place, each representing a different level of competence for a professional preparer. The first is the Enrolled Agent, whose specialty is the representation of taxpayers – by default, one cannot properly represent a taxpayer if one cannot competently perform the calculations necessary to make sure the tax is accurately computed AND be able to accurately interpret the tax laws. The second is the Accredited Tax Preparer which is issued by the Accreditation Council for Accountancy and Taxation (ACAT). Their web site includes the following information - Accredited Tax Preparer® (ATP) This credential is for practitioners who demonstrate a thorough knowledge of the existing tax code and the preparation of individual, corporate, and partnership tax returns. You must have three years of work experience in tax preparation. One year is considered a tax-season (January through April). ATP Examination This three-hour examination consists of 100 multiple-choice questions which test your proficiency in taxation and ethics. Test sites are open to take the examination for three weeks in May and early June and three weeks in late November and December. The required score is 70. The exam fee is \$200. Additionally, there is the CPA designation, which is already recognized and accepted by the IRS. Considering I hold both the EA and the ATP designations, I may be a bit slanted in my attitude. I firmly believe that the EA credential is a step above the ATP and the CPA for two reasons. First, it focuses on representation while the ATP focuses on preparation of tax returns and the CPA certificate focuses on the broader spectrum of public accounting, only a small portion of which includes taxation. Second, the EA credential is accepted by states where the CPA is not automatically granted reciprocity - state like California, New York and Oregon come immediately to mind (because I've worked with the taxing authorities in those states), but I'm sure there are some others. In any case, a credential or licensing or whatever we wish to call it is ALREADY IN PLACE at the NATIONAL level - the EA and the ATP are NATIONAL designations. The CPA certificate is issued by a STATE board of accountancy and while it is widely accepted via reciprocity by many states it is NOT automatically accepted through reciprocity by all states. The CPA certificate requires a college degree before one can sit for that exam, which consists for four parts, with only section dealing with taxation. Most states offer the exam several times a year. The EA credential requires no college degree BUT it is an extensive 16-hour exam that focuses ONLY on taxation issues. The exam is ONLY available once a year. The ATP designation requires no college degree and has ONLY a three hour exam, with just 100 multiple choice questions. The exam is available twice a year for three weeks each time. The U. S. Treasury and the IRS oversee the Enrolled Agent credential and all EAs. And ACAT, a nonprofit organization in Alexandria, which is an offshoot of the National Society of Accountants - another National organization - oversees testing and continuing education for the ATP designation. Each state also has it's own Board of Accountancy for oversight of CPAs. WHY is it necessary to create ANOTHER designation that will only result in another credential and more oversight? Isn't the public already confused enough - how many people outside of our profession KNOW -

- that not all CPAs are tax specialists? Most of the people I meet think that every CPA is a tax person when you and I know this is not the case;



- what an Enrolled Agent is? Not even the IRS seems to promote the very designation that they are charged with overseeing;
- that most jurisdictions have NO restrictions on who can prepare tax returns? I've picked up a lot of clients who said they were unhappy with the prior CPA and were shocked when I explained to them that their preparer was NOT a CPA - sometimes there were EAs and sometimes they were tax mills (like HRB, LT and JH - who have some very good preparers, but most of whom have no significant background in taxation. They simply took a tax class and were offered a job - this does NOT make them a professional);

The public doesn't understand NOW what the differences are - WHY confuse them further? And why create another credential or designation that only does PART of the job? My understanding is the proposed test for tax-preparer registration will focus on individual tax returns and issue YET registration will NOT restrict those that pass from preparing business returns - where is the logic in this? Where is the public protection that is supposed to be the crux of this issue? There are already designations in place that test overall competency and require some level of continuing education - The EA, CPA & ATP. BOTH testing and continuing education are crucial to continued competency in our profession. AND whichever designation is chosen, some agency will need to provide oversight - otherwise we might as well NOT bother with tax preparer registration. So, since there are already at least three designations available - offering varying levels of entry into the field - we should either accept those that already exist OR modify them to meet the need. We should NOT create another new credential or certification or whatever you want to call it. Considering the above, can someone please tell me WHAT a new designation or registration will bring to the table that is of positive benefit, either to the professional tax community or to the public at large? I'd really like to know. As always, if you have any questions or need any further information about this or any other topic, please contact me.

Regards,  
 Gene E. Utterback, EA, RFC, ABA  
*The Alliance, Ltd - Tax, Business & Financial Advisors*

From: Irene Gonzalez  
Sent: Wednesday, August 12, 2009  
Subject: Notice 2009-60

This is a response to the call by the IRS to provide feed-back on Notice 2009-60

With reference to item 1: "How the tax return preparer community can assist in increasing taxpayer compliance?" my thoughts are as follows: The tax preparer can be the ultimate tool for compliance if the preparer is regulated. The problem arises when the preparer fails to identify him/herself as a paid preparer on a return for the purpose of either tax evasion or responsibility evasion. Taxpayers more often than not do not know that the tax preparer must sign the return. Taxpayers, although ultimately responsible for the contents of their return, do not know how to read the entries made by the preparer. The preparer takes advantage of these two weaknesses in order to: include exorbitant deductions and/or not qualifying credits so that the taxpayer can end up seemingly satisfied and come back to them next year. The end result of this is:

1. A taxpayer who, unknowingly, understates his/her tax liability
2. A Preparer who, by not disclosing his/herself as the return preparer, is allowed to perpetuate this scheme with other taxpayers, thus making this problem exponentially worse
3. A government that is unable to collect the correct tax due and thus, affects all taxpayers

In short, my answer to the first question is that in order for the tax return preparer community to better assist in increasing taxpayer compliance, the tax return preparer must find him/herself in a position where they **MUST** sign the return. Putting their name there as the return preparer will significantly decrease the incidence of fraud. It is my experience that most of the time, when I review a tax return, the grossest fraudulent deductions appear where a paid return preparer has not signed the return. When the return has been signed by the preparer, the incidence of incorrectly claimed deductions falls sharply. The problem is, how do you force a return preparer into signing the return? The answer to that is Taxpayer outreach and education - There must be a campaign aimed at informing taxpayers of the responsibility by the preparers to sign the return and the implications of failing to do so. The campaign must tell taxpayers that if their preparer refuses to sign the return, payment is not earned or owed. Monitoring of return preparers: The need for monitoring can be satisfied by having tax preparers be regulated by Circular 230, just as Enrolled Agents, Attorneys and CPA's. Difference in regulation and oversight: By including licensed tax preparers as a regulated industry under Circular 230, there would not be a difference in regulation and oversight. Minimum level of Education: The minimum level of education must be demonstrated after a Tax Preparer successfully passes an exam similar to that Enrolled Agents had to pass. The only difference between an Enrolled Agent Examination and a Tax Preparer examination is that I would be in agreement to the Tax Preparer's examination being an "open book" exam where the Tax Preparer is allowed to browse the IRS Code while undergoing examination. However, the examination must include all aspects of taxation such as Businesses, Trusts, Estates, Ethics, Etc. Who should be responsible for ensuring that a tax return preparer meets this minimum level? The exam same way Enrolled Agents are required by OPR, Tax Preparers should be required (since they would fall under Circular 230) to pass this Open Book examination by OPR. The examination can be done by Prometric, or other companies that provide similar services. What, if any, service and outreach should be provided to tax return preparers and taxpayers? In order for the tax return preparer community to better assist in increasing taxpayer compliance, the tax return preparer must find him/herself in a position where they **MUST** sign the return. Putting their name there as the return preparer will significantly decrease the incidence of fraud. It is my experience that most of the time, when I review a tax return, the grossest fraudulent deductions appear where a paid return preparer has not signed the return. When the return has been signed by the preparer, the incidence of incorrectly claimed deductions falls sharply. There must be a National Educational Campaign aimed at informing taxpayers of the responsibility by the preparers to sign the return and the implications of failing to do so. The campaign must tell taxpayers that if their preparer refuses to sign the return, payment is not earned or owed.

**Who should provide and bear the costs for these needed services?** This can be an initiative paid for by the government - The benefits will greatly outweigh the expense associated with this campaign.

**Should tax return preparers be subject to a code of ethics, and, if so, what specific behavior should that code promote or prohibit?** Tax Preparers should be regulated under Circular 230

**What, if any, responsibility should the firms or businesses that employ tax return preparers have for the conduct of the individuals they employ?** The businesses/employers of tax preparers should bear full responsibility of Tax Preparers' actions.

**What, if any, responsibility should Tax Return preparer professional organizations have for the education, training, and conduct of their members?** Belonging to a Professional Organization is optional. As long as the licensee complies with the educational and conduct requirements set forth in Circular 230, there should be not additional requirement for education, training and conduct.

**If tax return preparation services should be regulated, what if any special regulatory provisions should be made for individuals who are already tax return preparers, licensed attorneys, CPA's, enrolled agents or software providers?** Tax Return Preparers should immediately be included under Circular 230 and should start complying with the requirements set forth within. Regulatory provisions for Licensed attorneys, CPA's and Enrolled Agents should remain the same.

**What, if any, additional legislative, regulatory, or administrative rules should the Service consider recommending as part of its proposals with respect to the tax return preparer community?** Increased penalties for misconduct, fraudulent returns, etc, must be imposed on all preparers, CPAs, EAs, and attorneys alike.

Thanks for allowing me to provide this feedback. I hope it is helpful. ...  
Irene Gonzalez, EA  
Tax Advise & Consulting LLC

From: Mason Laird  
Sent: Wednesday, August 12, 2009  
Subject: Notice 2009-60

Attachments: CFA and NCLC comments on RALs to IRS, 8-12-09.pdf  
Please see the attached comments from the Consumer Federation of America and the National Consumer Law Center regarding Notice 2009-60.  
Mason Laird  
Consumer Federation of America  
IRS Commissioner's Return Preparer Review Forum  
IRS Notice 2009-60  
August 12, 2009

Comments

Jean Ann Fox  
Director of Financial Services  
Consumer Federation of America  
Chi Chi Wu  
National Consumer Law Center  
(on behalf of its low income clients)

#### Introduction

The annual tax return preparation and filing requirement for Americans results in both an important marketplace transaction when consumers pay commercial outlets to prepare and file their tax returns and an exposure to high cost financial products when preparers partner with banks to sell high cost refund anticipation loans and other financial products and services. Since 2002, the National Consumer Law Center (NCLC) and the Consumer Federation of America (CFA) have issued annual reports on refund anticipation loans and related tax preparation and filing issues.] We appreciate the opportunity to share some of this information with the IRS as the Commissioner develops his proposals to improve tax filing for American consumers.

#### A. Tax Preparers Should be Regulated to Protect Taxpayers.

A tax return is probably the most critical financial interaction that a consumer has with the federal government during the year. A wrongly or fraudulently prepared return can lead to dire economic consequences or even criminal sanctions for taxpayers. Yet there is no licensing requirement or supervision for the industry personnel that actually fills out the tax returns of millions of consumers. Anyone can charge the public to prepare tax returns for whose accuracy the taxpayer is responsible. Large national chain tax preparers - H&R Block, Jackson | Chi Chi Wu and Jean Ann Fox, National Consumer Law Center and Consumer Federation of America, *Big Business. Big Bucks: Quickie Tax Loans Generate Profits/or Banks and Tax Preparers While Putting Low-Income Taxpayers at Risk*. February 2009. Available at [www.consumerfed.org/pdfs/2009 RA Report.pdf](http://www.consumerfed.org/pdfs/2009%20RA%20Report.pdf)

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Hewitt, and Liberty Tax -- prepared about 20 million returns in 2007 while independent preparers prepared nearly 59 million tax returns. The independent preparers range from licensed professionals, such as attorneys and certified public accountants, to any person who wishes to make money preparing taxes and selling the extras, such as refund anticipation loans (RALs) and refund anticipation checks (RACs). Too often consumers get poor value for their tax preparation dollars.

In 2008, several significant studies on tax preparation and the sale of RALs were released by consumer groups and government investigators which illustrate a shocking lack of quality control or accuracy in tax preparation.

a. The Community Reinvestment Association of North Carolina (CRA-NC) in Durham and Community Legal Services of Philadelphia (CLS) and the Philadelphia Campaign for Working Families conducted 17 "mystery shopper" tests of paid tax preparers, with results



less. In 2007 nearly two-thirds of RAL borrowers (5.44 million families) received the Earned Income Tax Credit, the nation's largest anti-poverty program. About half of EITC recipients pay part of their publicly funded benefits to a bank to buy a tax-related financial product, including refund anticipation checks and loans.

Refund anticipation checks (RACs) are a non-loan payment device offered by RAL banks. With RACs, the bank opens a temporary bank account into which the IRS direct deposits the refund check. After the refund is deposited, the bank issues the consumer a paper check or prepaid debit card with the RAC proceeds and closes the temporary account. RACs generally cost around \$30. In 2007, the IRS reports that nearly 11.2 million taxpayers received a RAC,<sup>5</sup> at a cost of about \$336 million.

**RALs and RACs Permit Tax Preparers to Hide the Cost of Tax Preparation**

The ability to deduct tax preparation fees from a refund anticipation check - or a RAL - enables commercial preparers to withhold information on the price of tax preparation. They also make

<sup>5</sup> Data from IRS SPEC, Return Information Database for Tax Year 2006 (Returns Filed in 2007), Jan. 2009. 3

taxpayers less sensitive to the price of preparation. Since the fee is deducted from the RAL or RAC, consumers may not be as sensitive to this lack of pricing information.

The ability to deduct fees from a RAL or RAC also enables independent preparers to pad the price with add-on fees. Our research has found add-on fees from \$25 to over \$300. As a trade newsletter published by a software provider for independent preparers bluntly advised:<sup>6</sup> The most successful e-file shops in the U.S. do not use price lists and they "lowball" their tax preparation charges to get the customer in the door. (Note: In some markets it's customary to throw in free e-file and charge a higher price for the tax return preparation).

*They then charge more for e-filing and bank products to make up for the "lowball" price.* For instance, if the going price for 1040EZ's in your area is \$49 you might want to charge \$29. Advertise the \$29 price with a note at the bottom (the fine print) that says "1040EZ's". Get the customer in the door. Then charge more for the e-file and bank products to make up for the discounted \$29 price.

**RALs Contribute to Fraud and Aggressive Tax Positions by Preparers**

Mixing tax preparation with refund anticipation loans has a negative impact on the integrity of tax administration. This promotes tax fraud by preparers, which the IRS recognized in opening a rule-making proceeding in 2008, asking whether the agency should write rules to restrict the sharing of tax return information to market RALs, RACs, audit insurance and other financial products.<sup>7</sup> A key question was whether RALs and other tax financial products provide preparers with a financial incentive to inflate refund claims inappropriately.

NCLC, CFA and other consumer groups submitted extensive evidence indicating that RALs do provide tax preparers with an incentive to inflate refunds and cited statements by fraud experts and IRS criminal enforcers that RALs aid thieves in commission of tax fraud. <sup>8</sup> The IRS has not issued any proposals as a result of this open docket.

The RAL contribution to tax fraud is no secret to the IRS. In 2004, then Director of the IRS Criminal Investigation Division's Refund Crimes Unit reported that 80 percent of fraudulent efiled

returns were tied to a RAL or other refund financial product.<sup>9</sup> In 2005, the Chief of the Criminal Investigations Division told Congress that 75 percent of tax returns identified as questionable and/or fraudulent were associated with a RAL. <sup>10</sup>

<sup>6</sup> WorldWideWeb Tax, *Tax Return Pricing*, The Tax Time News, Oct. 2008, on file with NCLC.

<sup>7</sup> 73 Fed. Reg. 1131 (Jan. 7, 2008)

<sup>8</sup> Comments of National Consumer Law Center, Consumer Federation of America, et al. regarding Advance Notice of Proposed Rulemaking - Guidance Regarding Marketing of Refund Anticipation Loans (RALs) and Certain Other Products, April 7, 2008, available at

[http://www.consumerslaw.org/issues/refund anti ci ration/content!comments 040708.pdf](http://www.consumerslaw.org/issues/refund%20anticipation/content/comments%20040708.pdf)

<sup>9</sup> Allen Kenney, *IRS Official Shines Spotlight on E-Filing Fraud*, 2004 Tax Notes Today 130-4, July 6, 2004.

<sup>10</sup> Statement of Nancy L. Jardini, Chief, Criminal Investigation, Internal Revenue Service, *Testimony before the*

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RALs are the tool of choice for identity thieves. A March 2008 Wall Street Journal article about the growing problem of tax ID theft featured several cases in which RALs were used to perpetrate that crime.<sup>11</sup>

The U.S. Department of Justice (DOJ) civil action charged five Jackson Hewitt franchisees operating 125 offices with tax fraud for preparing fraudulent tax returns falsely claiming \$70 million in tax refunds. DOJ alleged that these preparers filed false returns claiming refunds based on phony W-2 forms; fabricated businesses and business expenses on returns to claim bogus deductions; and massive fraud related to Earned Income Tax Credit claims. RALs were heavily involved in the fraud committed by these Jackson Hewitt franchisees, according to the DOJ complaints.<sup>12</sup>

Others have documented fraudulent tax preparation in connection with RALs. A 2008 sting operation by the New York Department of Taxation and Finance found evidence of fraud among about 40 percent of the 85 tax preparers they visited.<sup>13</sup> The National Taxpayer Advocate's 2007 Report to Congress noted that when IRS audited EITC tax returns associated with RALs, they found errors in 87 percent of the cases versus 73 percent of cases without RALs - a 14 percent difference.<sup>14</sup> The Treasury Department's Financial Crimes Enforcement Network (FinCEN) issued a warning to banks in 2004 on the fraud potential of RALs: "To make this type of loan appealing to the public, funds are made immediately available, leaving little time for the lender to perform due diligence to prevent fraud.,"<sup>15</sup>

Mystery shopper testing by consumer and advocacy groups have found repeated instances of inflated refunds and fraud, linked to RALs. Mystery shopper testing by consumer groups in Durham and Philadelphia found multiple instances of tax preparation that would have led to inflated refunds.<sup>16</sup> An advocacy group in Alabama conducted mystery shopper tests finding that 11 of the 13 preparers incorrectly claimed the EITC; 10 preparers did not report income from other jobs such as babysitting; 8 did not report interest income; and 12 allowed testers to claim "head of household" status without being qualified for it.<sup>17</sup>

The IRS's own research has confirmed the link to RALs and tax fraud. Last year the IRS examined different sets of tax returns that had been audited, some with RALs or RACs and others without. They found that "propensity scoring methods indicate that there is a significant correlation between taxpayers who use RALs and noncompliance. RAL users are 27 percent-

<sup>11</sup> Tom Herman, *Identity Thieves Target Tax Refunds*, Wall Street Journal, March 12, 2008.

<sup>12</sup> Complaint, United States v. Smart Tax of Georgia, Inc., I:07CY-0747 (N.D. Ga. Apr. 2, 2007); Complaint, United States v. Smart Tax Inc., 07C-1802 (N.D. III. Apr. 2, 2007); Complaint, United States v. Sofar, Inc., Civ. No. 2:07-cv-11460 (E.D. Mich. Apr. 2, 2007); Complaint, United States v. Smart Tax of North Carolina, Inc., Civ. No. 5:07-cv-00 125-FL (E.D.N.C. Apr. 2, 2007). Complaints at <http://www.usdoj.gov/tax/txdv07215.htm>.

<sup>13</sup> Tom Herman, *New York Sting Nabs Tax Preparers*, Wall Street Journal, Nov. 26, 2008.

<sup>14</sup> National Taxpayer Advocate, *FY 2007 Annual Report to Congress*, December 31, 2007, at 88.

<sup>15</sup> FinCEN, SAR Activity Review, Issue 7, August 2004, at 15-17.

<sup>16</sup> Chi Chi Wu, Kerry Smith, Peter Skillern, Adam Rust, and Stella Adams, *Tax Preparers Take a Bite Out of Refunds: Mystery Shopper Test Exposes Refund Anticipation Loan Abuses in Durham and Philadelphia*, National Consumer Law Center, Community Reinvestment Association of North Carolina, Community Legal Services of Philadelphia, April 2008, ("Durham/Philadelphia Mystery Shopper Report")

<sup>17</sup> Impact Alabama, *Impact Alabama Undercover Investigation of Commercial Tax Preparers in Alabama Results and Analysis*, Jan. 2009, on file with authors.

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36 percent more noncompliant than taxpayers who do not use a bank product.,<sup>18</sup> The researchers cautioned that the higher rate of noncompliance by RAL users does not prove that RALs cause tax fraud.

**RALs Provide Preparers with Financial Incentives to Inflate Refunds**

Financial incentives provided to tax preparers who sell refund anticipation loans encourage preparers to sell and promote RALs and can lead to preparers sometimes inflating a taxpayer's

refund. Incentives include kickbacks per RAL, a 49.9 percent participation share in every RAL facilitated by Block for HSBC, and a lump sum from RAL lenders to Jackson Hewitt plus payment for reaching growth thresholds. Independent preparers can tack on a multiplicity of add-on fees on top of the RAL loan fee charged by the bank, ranging from \$25 to several hundred dollars. Despite IRS rules prohibiting preparers from basing their fees on the refund amount, RAL compensation structures undermine this protection by compensating preparers for generating loans. We suspect that some preparers may even be inflating refunds to attract customers, then taking out a "cut" of the inflated refund in the form of high add-on fees - exactly the abuse that the IRS rules were designed to prevent.

Retailers who offer tax preparation and RALs want bigger refunds so they can sell a more expensive product to be paid for by the RAL. A bigger refund means a bigger check cashing fee for the check casher who prepares tax returns, or more money to payoff a loan for payday lenders and pawn shop operators who offer tax preparation and RALs to their customers.

#### RALs Attract Fringe Financial Outlets to Tax Preparation

RALs entice a particularly troubling type of tax preparer - the fringe financial preparer. Fringe preparers include businesses that are historically associated with the exploitation of consumers, such as payday loan stores, check cashers, and used car dealers, as well as retailers and businesses that target immigrant communities.

Government research reports confirm the prevalence of fringe preparers. In June 2008, the GAO released a report based on its mystery shopper testing of tax preparers in several states.<sup>19</sup> The investigation was limited to identifying types of businesses where RALs are marketed, and the information preparers disclosed to RAL applicants. Of 27 preparers open only during tax season, 13 were located in businesses that target low-income customers, such as check cashers, payday loan vendors, rent-to-own stores, and pawn shops.

Nine of these preparers in the GAO study offered incentives to encourage tax customers to spend their refunds on the businesses' primary goods and services. For example, an auto dealer told GAO investigators that if they didn't have enough money for the down payment on a car, they could get their taxes done by its tax preparer and use the refund as a down payment. Another preparer operated out of a shoe store, and offered a free pair of shoes with tax preparation.

<sup>18</sup> Karen Masken, Mark Mazur, Joanne Meikle, and Roy Nord, *Do Products Offering Expedited Refunds Increase Income Tax Non-Compliance*, Office of Research, Analysis and Statistics, Internal Revenue Service, 2008, at 15, on file with authors ..

<sup>19</sup> Government Accountability Office, *Refund Anticipation Loans*, GAO-08-800R, June 5, 2008, available at <http://www.gao.gov/new.items/d08800r.pdf>.

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A fundamental problem with fringe preparers is the questionable quality of tax preparation. While software providers and remote tax preparation locations do offer back office support, often the retail salesperson at the fringe preparer is actively engaged in the preparation. The testing conducted in Durham and Philadelphia found several instances of incompetent tax preparation, including by one fringe preparer who essentially advised the tester to commit tax fraud. Testing conducted in Alabama found even more instances of incompetent or fraudulent tax preparation, including a small loan company that prepared a tester's return to show a \$6,247 refund when the tester actually owed \$112 to the IRS. o

**Recommendations:** The IRS should amend its regulations under Section 7216 to prohibit the sharing and/or use of tax return information for purposes of selling or arranging financial products. This proposal is to remove the "with consent" exception to the ban on secondary use of tax return information and is the position taken by consumer groups in prior comments to the IRS. The IRS should stop providing the debt indicator service which makes it possible for RAL banks to learn about other claims on applicants' expected tax refunds before deciding whether to extend credit. The federal government should not be sharing this personal information with banks and should not be operating what is essentially a free credit reporting service for banks. The IRS should support legislation to ban the sale of loans secured by tax refunds or at least based on the Earned Income Tax Credit and other benefits distributed through the tax system.



IRS tax refund checks should only be direct deposited by the IRS into a bank account owned by and controlled by the taxpayer.

### **C. The IRS Should Improve Speed and Access to Tax Filing and Refunds**

#### **IRS Should Speed Up Delivery of Tax Refunds**

One of the most critical reforms that will reduce or eliminate RALs is to speed the issuance of refunds from the current 8 to 15 days to a few days. The IRS CADE system will allow it to do so, but the GAO reported earlier this summer that the CADE program was being reevaluated.<sup>20</sup> The IRS should resume work on CADE or make other upgrades to speed up delivery of tax refunds. Faster delivery makes RALs less attractive, saving taxpayers hundreds of millions in RAL fees each year.

#### **IRS Should Provide Free Electronic Tax Return Filing**

Although the IRS provides Free File through a business consortium and encouraged a reduction in their electronic filing fees, the longer term solution is to make it possible for taxpayers to use tax return templates provided on the IRS website to prepare and electronically file their own tax returns for free without going through a third party intermediary. Permitting direct e-filing by consumers who have prepared their own tax returns using IRS templates available on the IRS website or using commercial software programs is not the same as "letting the IRS prepare your

<sup>20</sup> Impact Alabama, *Impact Alabama Undercover Investigation of Commercial Tax Preparers in Alabama Results and Analysis*, Jan. 2009, on file with authors.

<sup>21</sup> Government Accountability Office, GAO-09-640, *Tax Administration - Interim Results of IRS's 2009 Filing Season*, June 2009.

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taxes." Conflating these two concepts is deliberate obfuscation by those who wish to preserve the complete control of commercial preparers over electronic filing.

Enabling taxpayers to file electronically for free directly with the Internal Revenue Service will benefit taxpayers tremendously. It will save taxpayers the fees charged by some commercial preparers for electronic filing. It will permit electronic return filing without the opportunity for commercial marketing of extraneous products and services. By allowing free direct electronic filing with the IRS, taxpayers would be able to bypass commercial preparers that might exploit or share their personal, confidential tax information for non-tax purposes.

A free direct electronic filing program at [www.irs.gov](http://www.irs.gov) is long overdue. Americans have been able for years to apply for federal student financial aid on [www.fafsa.ed.gov](http://www.fafsa.ed.gov) and for Social Security benefits at [www.ssa.gov](http://www.ssa.gov). Many states make it possible for citizens to file state tax returns electronically for free. The IRS even discontinued its Telefile program a few years ago, which was used by over three million taxpayers in 2005 to file their simple tax returns for free by calling the IRS with the necessary information.

Recommendations: Speed up delivery of tax refunds to make loans based on refunds less attractive and to better serve Americans. Provide a free electronic form and delivery system through [IRS.gov](http://IRS.gov) so that consumers can complete their tax returns and file electronically directly with the IRS without making their information available to commercial providers.

#### **Conclusion**

The IRS should ban loans secured by expected tax refunds and institute licensing and supervision of tax preparers in order to safeguard consumers and the tax system. In addition the IRS should speed up the processing of tax refunds and make direct free electronic return filing available for taxpayers.

From: P T Yip  
Sent: Thursday, August 13, 2009  
Subject: Comments on tax return Preparers "Notice 2009-60"

To IRS Commissioner: Doug Shulman,  
Associate Chief Counsel: Richard S. Goldstein  
"Notice 2009-60"

In response to your requests for public comment on tax return preparers, I recommend that, in order to protect taxpayers and avoid abuses, tax return preparers should be monitored, regulated and licensed by the IRS in the same way enrolled agents are. I also recommend that passing a qualifying exam is required to receive a license, and annual continuing education is required to maintain a license. The level of education standard for tax return preparers may not be as high as that of enrolled agents because most tax return preparers do not have a good education background. In fact, many tax return preparers have little formal education. This is one big reason why they should be trained and licensed. The licensing authority should be a government agency, not private organizations, because private organizations can be controlled by private interest groups such as H & R Block, Jackson Hewitt and Liberty Tax. For example, in California, tax return preparers must register with California Education Council (CTEC), a private organization. CTEC provides registration, not licensing as reported. This CTEC has a Curriculum Provider Standards Committee and its chair is from H & R Block. The committee member is from Liberty Tax. The director is from Jackson Hewitt Tax Service. There is a conflict of interest here, because this committee can reject and deny other small tax services providing education. In addition, this CTEC charges a fee from \$500 to \$1,000 to "review" an education course, and therefore these interest groups are making windfall profits on other small tax service providing education. For the above reasons, California Education Council (CTEC) sets a bad example as a "licensing" organization. IRS should not recognize this organization (CTEC), and should not recognize its registered tax preparers. Instead, a government agency is recommended as the licensing, monitoring and regulating agency. The CTEC's illegal activities should be stopped, and stopped immediately. On the contrary, Oregon state has a government agency regulating, monitoring and regulating its tax preparers. Private interest groups have no role in the government agency there. State colleges and private education providers must register with Oregon state to provide continuing education. Oregon has a much better system than California. Oregon's system is efficient, effective, fair and workable. On the other hand, California's CTEC is corrupt and needs fixing.

Thank you.  
Sincerely,  
Peter T. Yip, EA  
Retired Enrolled Agent

From: Forrest Hill, CPA  
Sent: Friday, August 14, 2009  
Subject: Notice 2009-60

I read with great interest several recaps of the panel discussions held recently regarding national licensing of tax preparers. I applaud the progress toward an eventual solution to the ever-increasing problem of inept and unethical preparers. I agree with the idea that our tax system and its proper implementation and operation are critical to government operations. As a PA, however, I believe that financial statements accurately reporting the results of business operations are the backbone of our economy. In a sense, then, tax returns are a subset of that. Since you are obviously aware that Oregon licensed tax preparers and consultants have already been tested and shown to possess the minimum knowledge and education for practice in the tax preparation industry, I would suggest that you use the Oregon system as a framework or starting point for any new national licensing program.

Thank you for your service and attention to my comments.  
FORREST HILL, CPA  
Voeilinger & Hill CPA's P.C.

From: John Stevens  
Sent: Friday, August 14, 2009  
Subject: new performance standards for preparers

My suggestion: Any new rules & standards adopted ought to be targeted to unenrolled folks, not layered on top of or added to already existing rules & regulations that currently govern Cir 230 practioners John Stevens, EA

From: Debbie Irwin  
Sent: Friday, August 14, 2009  
Subject: Notice 2009-60

To the IRS Counsel at the Department of the Treasury:

Please consider banning tax refund anticipation loans and similar early tax refund services.

In my work with home owners at risk of foreclosure I have seen too many low income families that paid several hundred dollars to get their tax refunds early. The families engaged the services of these tax preparers because they felt desperate. What they did not realize is that with e-file they would have received their refund very quickly without having to pay these high fees. Two years ago H & R Block advertized very heavily in the St. Louis metro area for tax refund anticipation loans primarily by placing bill boards in low income areas. This year I did not see these bill boards. The practice is predatory in nature and is not necessary.

Thank you for considering banning this type of practice.

Sincerely,  
Debbie Irwin  
Foreclosure Task Force Coordinator  
Foreclosure Intervention Counselor  
Beyond Housing

From: Chris.Axene  
Sent: Friday, August 14, 2009  
Subject: Notice 2009-60 Comment Response

To Whom It May Concern,

I am writing to offer my comments with regard to the Service's request for comments pertaining to proposed performance standards for all tax return preparers. While I believe the idea is a good one, I fear that, without careful consideration, any proposed tax return preparer regulations have the potential to overreach with regard to their scope and impact on the intended audience. As you are aware, there currently exists a well founded set of professional standards and rules applicable to CPAs, Attorneys and Enrolled Agents, who are currently subject to the provisions of Circular 230, the AICPA Statement on Standards for Tax Service, and the ABA Model Rules of Professional Conduct (as applicable). As licensed professionals, CPAs and Attorneys agree to be bound by these ethical rules, even if they don't carry the force of law. Furthermore, many state accountancy boards and bar associations use these same standards for regulation and licensure in their jurisdictions. In addition, Circular 230 and various sections of the Internal Revenue Code currently provide a set of rules that carry civil and even criminal penalties for wayward return preparers. Because this is their profession, CPAs and Attorneys take these rules seriously. Signing a tax return as a return preparer should be an act of great responsibility on the part of the signer. I believe CPAs, Attorneys and Enrolled Agents as a whole do not take this responsibility lightly. There is simply too much to lose by not doing so. For the foregoing reasons, further regulation/oversight of these three groups is not, in my opinion, necessary, beneficial, or required. Adequate safeguards already exist. For those "unenrolled" tax return preparers that do not otherwise fit into one of the three "certified" categories, further regulation is, in my opinion, necessary, beneficial and required because the stakes are often not very high for this segment. In fact, return preparation is usually part-time work primarily performed during the annual tax filing busy season and the income generated often is not material to the annual income for the household. I personally believe that the return signers at these firms should all be held to the same standards as the rest of us. While it may not be popular, I don't see why the IRS should not mandate that all return signers be either: a CPA, Attorney or an Enrolled Agent. While it's probably unlikely that this segment will qualify for the first two, it's my understanding that becoming an Enrolled Agent is not an overly burdensome process, and in my opinion, becomes the recommend solution if a regulation mechanism for this segment is important - and I think it is. In conclusion I believe the solution to the problem of unregulated, unenrolled tax return signers already exists. It is the Enrolled Agent program. It can and should be used to address this issue.

Respectfully submitted,  
Christopher E. Axene, CPA  
Principal  
Rea & Associates, Inc.

From: Jonathan Stoller  
Sent: Friday, August 14, 2009  
Subject: Notice 2009-60

To Whom It May Concern:

CPAs, attorneys, and enrolled agents (Le., tax professionals already subject to Circular 230) should be exempt from any new federal regulation regime imposed on currently unlicensed preparers. I do feel it is beneficial to impose duplicative regulatory regimes on CPAs, attorneys, and enrolled agents.

Thank you for your consideration,

*Jon*

Jonathan T. Stoller, CPA  
AREND, LAUKHUF & STOLLER, INC.  
CERTIFIED PUBLIC ACCOUNTANTS